

2. RESPONSE/REMARKS:

2.1 STATUS OF THE CLAIMS:

Claims 1-5, 7-31, 35 and 39-43 were pending at the time of the Action.

Claims 17, 22, 24, 26, 30 have been amended herein.

Claim 43 has been canceled herein without prejudice or disclaimer.

Claims 1-5, 7-31, 35 and 39-42 remain pending in the case.

2.2 SUPPORT FOR THE CLAIMS:

Complete support for the language of all pending claims can be found throughout the Specification and claims as originally filed. It is Applicants' belief that no new matter is incorporated by way of the accompanying amendment.

Amended claims 17, 22, 24, 26, and 30 incorporate the definition of the cyclic auxiliary compound from claim 1 into the body of each independent claim, in accordance with the Examiner's suggestion on page 2 of the Action, to more clearly and distinctly claim the inventive subject matter.

2.3 THE OBJECTION TO CLAIMS 17-31, 39 AND 40 IS OVERCOME.

The Action objected to claims 17-31, 39 and 40 allegedly as lacking clarity because of the reference to the auxiliary recited in claim 1 (page 2, ¶4).

Applicants respectfully traverse. However, without acquiescing in any way with the propriety or substance of the objection, and solely with the intent of concluding prosecution on the merits for the claims indicated as allowable by the Office, Applicants have clarified the language of claims 17, 22, 24, 26, and 30 to recite the definition of the cyclic auxiliary

compound from claim 1 within the body of each independent claim. Applicants believe this amendment fully addresses the Examiner's concerns regarding the clarity of the claim language without modifying the scope of the invention recited herein, and as such, respectfully requests that the objection now be withdrawn.

2.4 THE REJECTIONS OF CLAIM 43 UNDER 35 U.S.C. § 112 ARE RENDERED MOOT.

The Action rejected claim 43 under 35 U.S.C. § 112, 1st paragraph, allegedly as failing to comply with the written description (page 3, ¶5), and under 35 U.S.C. § 112, 2nd paragraph, allegedly as being indefinite (page 5, ¶6).

Applicants respectfully traverse. However, mindful of economic loss, erosion of patent term, and in the effort to advance claims of particular commercial relevance to early allowance and bring the present examination to a favorable conclusion, Applicants have canceled claim 43 without prejudice or disclaimer. As such, the present rejections are rendered moot. Applicants respectfully request, therefore, that they now be withdrawn.

2.5 CONCLUSION

Applicants believe that the pending claims are acceptable under all sections of the Statutes and in condition for ready allowance; Applicants earnestly solicit concurrence by the Examiner and the issuance of a Notice of Allowance with all due speed. Applicants also note for the record their explicit right to re-file claims to one or more aspects of the invention as originally claimed in one or more continuing application(s) retaining the priority claim from the present and parent cases.

Should the Examiner have any questions, or should any issues remain outstanding, a telephone call to the undersigned Applicants' representative would be sincerely appreciated.

Respectfully submitted,



Mark D. Moore, Ph.D. (Reg. No.: 42,903)

Date: January 7, 2009

HAYNES AND BOONE, LLP

Customer No. 27683

Telephone: 713-547-2040

Facsimile: 214-200-0853

36677.8

H-760869_1.DOC

Certificate of Service

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via EFS-Web on January 7, 2009.



Margaret A. Pruitt